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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 JAMES DALE MOSELEY,

12 Plaintiff,

13 v.

14 DEPARTMENT OF SOCIAL AND
15 HEALTH SERVICES, *et al.*,

16 Defendant.

17 CASE NO. 3:17-cv-5427 BHS-JRC

18 ORDER TO SHOW CAUSE AND
19 EXTENDING STAY

20 The District Court has referred this 28 U.S.C. § 1983 action to United States Magistrate
21 Judge J. Richard Creatura. The Court's authority for the referral is 28 U.S.C. §§ 636(b)(1)(A)
22 and (B) and local Magistrate Judge Rules MJR3 and MJR 4.

23 On April 15, 2019, the Court extended the stay in this matter to May 31, 2019, and
24 ordered plaintiff's counsel to "file a status report and, if necessary, another motion to extend the
stay on or before May 17, 2019." Dkt. 56, at 3. The report was to "inform the Court whether
plaintiff's mental state has improved and whether it is likely that his mental health will improve
to a point where he is once again capable of engaging in litigation." Dkt. 56, at 3.

1 On April 16, 2019, the Court received plaintiff's counsel's letter in response to the April
2 15 order. *See* Dkt. 57. Plaintiff's counsel represented to the Court that plaintiff's condition had
3 not improved, although plaintiff "hope[d] that he will be released to a lo[w]er level of
4 confinement within the next 6 months." Dkt. 57, at 1. Moreover, plaintiff's counsel indicated
5 that discovery could not proceed for reasons including plaintiff's high level of confinement, his
6 mental condition, and plaintiff's unwillingness to speak with his counsel on the telephone,
7 caused by an incident in which a guard allegedly listened in to plaintiff and his attorney's phone
8 call. *See* Dkt. 57, at 1–2. Finally, plaintiff's counsel stated that he would "contact [plaintiff's]
9 counselor and psychologist to get an assessment as to his ability [to] assist in the review of
10 discovery and planning of depositions," "hopefully" by the end of April 2019. *See* Dkt. 57, at 2.

11 Although more than a month has passed since plaintiff's counsel informed this Court that
12 he would obtain an assessment of plaintiff's ability to assist in discovery and a week has passed
13 since the deadline for plaintiff's counsel to file a motion to continue the stay, plaintiff's counsel
14 has taken no further action before this Court.

15 Therefore, it is ORDERED—

16 (1) Plaintiff shall **SHOW CAUSE** on or before May 31, 2019, regarding whether the stay
17 in this matter should continue and plaintiff's current and future ability to participate in litigation.
18 If plaintiff seeks relief via court order, such as an extension of the stay, plaintiff must do so by
19 filing a motion. *See* Fed. R. Civ. P. 7(b).

20 (2) Defendants' deadline to file a response is extended to June 7, 2019. Defendants shall
21 indicate on or before June 7, 2019, their position on whether the stay in this matter should
22 continue and any alternatives that they propose.

1 (3) Plaintiff's reply to defendants' response, if any, shall be filed on or before June 12,
2
3 2019.

4 (4) The stay in this matter shall be extended to **June 21, 2019**, so that this Court may rule
5 on whether to extend the stay before it expires.

6 The Clerk shall update the docket accordingly.

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8 Dated this 24th day of May, 2019.

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11 J. Richard Creatura
12 United States Magistrate Judge
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